

116TH CONGRESS
1ST SESSION

H. R. 727

To end the use of corporal punishment in schools, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 23, 2019

Mr. HASTINGS (for himself, Mr. COHEN, Mr. DESAULNIER, Ms. NORTON, Ms. PINGREE, and Mr. RYAN) introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To end the use of corporal punishment in schools, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Ending Corporal Pun-
5 ishment in Schools Act of 2019”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Behavioral interventions for children must
9 promote the right of all children to be treated with

1 dignity. All children have the right to be free from
2 any corporal punishment.

3 (2) Safe, effective, evidence-based strategies are
4 available to support children who display challenging
5 behaviors in school settings.

6 (3) School personnel have the right to work in
7 a safe environment and should be provided training
8 and support to prevent injury and trauma to them-
9 selves and others.

10 (4) According to the Department of Education's
11 Technical Assistance Center on School-Wide Positive
12 Behavior Interventions and Support, outcomes asso-
13 ciated with school-wide positive behavior support are:
14 decreased office discipline referrals, increased in-
15 structional time, decreased administrator time spent
16 on discipline issues, efficient and effective use of
17 scarce resources, and increased perception of school
18 safety and sustainability through a team approach.

19 (5) Every 30 seconds during the school year, a
20 public school student is corporally punished.

21 (6) Nineteen States continue to permit corporal
22 punishment in public schools.

23 (7) According to Department of Education sta-
24 tistics, each year in the United States, hundreds of
25 thousands of school children are subjected to cor-

1 corporal punishment in public schools. School corporal
2 punishment is usually executed in the form of “pad-
3 dling”, or striking students with a wooden paddle on
4 their buttocks or legs, which can result in abrasions,
5 bruising, severe muscle injury, hematomas, whiplash
6 damage, life-threatening hemorrhages, and other
7 medical complications that may require hospitaliza-
8 tion.

9 (8) Gross racial disparity exists in the execution
10 of corporal punishment of public school children, and
11 African-American schoolchildren are disproportion-
12 ately corporally punished. The most recent available
13 statistics show that African-American students make
14 up 18 percent of the national student population,
15 but comprise 40 percent of all students subjected to
16 physical punishment at school. Black children are
17 nearly two-and-a-half times more likely to be cor-
18 porally punished than White children, and nearly
19 eight times more likely to be corporally punished
20 than Hispanic children.

21 **SEC. 3. PURPOSES.**

22 The purposes of this Act are to—

23 (1) eliminate the use of corporal punishment in
24 schools;

1 (2) ensure the safety of all students and school
2 personnel in schools and promote a positive school
3 culture and climate; and

4 (3) assist States, local educational agencies,
5 and schools in identifying and implementing effective
6 evidence-based models to prevent and reduce—

7 (A) corporal punishment in schools; and

8 (B) aversive behavior interventions that
9 compromise health.

10 **SEC. 4. PROHIBITION AGAINST CORPORAL PUNISHMENT.**

11 Subpart 4 of part C of the General Education Provi-
12 sions Act (20 U.S.C. 1232f et seq.) is amended by adding
13 at the end the following:

14 **“SEC. 448. PROHIBITION AGAINST CORPORAL PUNISH-**
15 **MENT.**

16 “(a) GENERAL PROHIBITION.—No funds shall be
17 made available under any applicable program to any edu-
18 cational agency or institution, including a local edu-
19 cational agency or State educational agency, that has a
20 policy or practice which allows school personnel to inflict
21 corporal punishment upon a student—

22 “(1) as a form of punishment; or

23 “(2) for the purpose of modifying undesirable
24 behavior.

25 “(b) LOCAL EDUCATIONAL AGENCIES.—

1 “(1) IN GENERAL.—In the case of an applicable
2 program under which a local educational agency may
3 only receive funds through a State educational agen-
4 cy that is prohibited under subsection (a) from re-
5 ceiving funds under any applicable program, a local
6 educational agency that is not prohibited under sub-
7 section (a) from receiving such funds may apply di-
8 rectly to the Secretary to receive funds under the
9 program.

10 “(2) CERTIFICATION.—Each local educational
11 agency applying directly to the Secretary under
12 paragraph (1) shall certify in such application that
13 the agency is not prohibited under subsection (a)
14 from receiving funds under any applicable program.

15 “(c) RULE OF CONSTRUCTION.—Nothing in this sec-
16 tion shall be construed to preclude school personnel from
17 using, within the scope of employment, reasonable re-
18 straint to the lightest possible degree upon a student, if—

19 “(1) the student’s behavior poses an imminent
20 danger of physical injury to the student, school per-
21 sonnel, or others;

22 “(2) less restrictive interventions would be inef-
23 fective in stopping such imminent danger of physical
24 injury; and

1 “(3) the reasonable restraint ends immediately
2 upon the cessation of the conditions described in
3 paragraphs (1) and (2).

4 “(d) DEFINITIONS.—For purposes of this section—

5 “(1) the term ‘corporal punishment’ has the
6 meaning given such term in section 12 of the End-
7 ing Corporal Punishment in Schools Act of 2019;

8 “(2) the term ‘educational agency or institution’
9 means any public or private agency or institution
10 which is the recipient, or serves students who are re-
11 cipients of, funds under any applicable program;

12 “(3) the terms ‘local educational agency’ and
13 ‘State educational agency’ have the meanings given
14 such terms in section 8101 of the Elementary and
15 Secondary Education Act of 1965;

16 “(4) the term ‘school personnel’ has the mean-
17 ing given such term in section 12 of the Ending Cor-
18 poral Punishment in Schools Act of 2019; and

19 “(5) the term ‘student’ includes any person who
20 is in attendance at an educational agency or institu-
21 tion.”.

22 **SEC. 5. STATE PLAN AND ENFORCEMENT.**

23 (a) STATE PLAN.—Not later than 18 months after
24 the date of enactment of this Act and every third year

1 thereafter, each State educational agency shall submit to
2 the Secretary a State plan that provides—

3 (1) assurances to the Secretary that the State
4 has in effect policies and procedures that eliminate
5 the use of corporal punishment in schools;

6 (2) a description of the State’s policies and pro-
7 cedures; and

8 (3) a description of the State plans to ensure
9 school personnel and parents, including private
10 school personnel and parents, are aware of the
11 State’s policies and procedures.

12 (b) ENFORCEMENT.—

13 (1) IN GENERAL.—

14 (A) USE OF REMEDIES.—If a State edu-
15 cational agency fails to comply with subsection
16 (a), the Secretary shall—

17 (i) withhold, in whole or in part, fur-
18 ther payments under an applicable pro-
19 gram (as such term is defined in section
20 400(e) of the General Education Provi-
21 sions Act (20 U.S.C. 1221)) in accordance
22 with section 455 of such Act (20 U.S.C.
23 1234d);

24 (ii) enter into a compliance agreement
25 in accordance with section 457 of the Gen-

1 eral Education Provisions Act (20 U.S.C.
2 1234f); or

3 (iii) issue a complaint to compel com-
4 pliance of the State educational agency
5 through a cease and desist order, in the
6 same manner the Secretary is authorized
7 to take such action under section 456 of
8 the General Education Provisions Act (20
9 U.S.C. 1234e).

10 (B) CESSATION OF WITHHOLDING OF
11 FUNDS.—Whenever the Secretary determines
12 (whether by certification or other appropriate
13 evidence) that a State educational agency that
14 is subject to the withholding of payments under
15 subparagraph (A)(i) has cured the failure pro-
16 viding the basis for the withholding of pay-
17 ments, the Secretary shall cease the withholding
18 of payments with respect to the State edu-
19 cational agency under such subparagraph.

20 (2) RULE OF CONSTRUCTION.—Nothing in this
21 subsection shall be construed to limit the Secretary’s
22 authority under the General Education Provisions
23 Act (20 U.S.C. 1221 et seq.).

24 (c) RULE OF CONSTRUCTION.—Nothing in this sec-
25 tion shall be construed to preclude school personnel from

1 using, within the scope of employment, reasonable re-
2 straint to the lightest possible degree upon a student, if—

3 (1) the student’s behavior poses an imminent
4 danger of physical injury to the student, school per-
5 sonnel, or others;

6 (2) less restrictive interventions would be inef-
7 fective in stopping such imminent danger of physical
8 injury; and

9 (3) the reasonable restraint ends immediately
10 upon the cessation of the conditions described in
11 paragraphs (1) and (2).

12 **SEC. 6. GRANT AUTHORITY.**

13 (a) **IN GENERAL.**—From the amount appropriated
14 under section 11, the Secretary may award grants to State
15 educational agencies to assist the agencies in improving
16 school climate and culture by implementing school-wide
17 positive behavior support approaches.

18 (b) **DURATION OF GRANT.**—A grant under this sec-
19 tion shall be awarded to a State educational agency for
20 a 3-year period.

21 (c) **APPLICATION.**—Each State educational agency
22 desiring a grant under this section shall submit an appli-
23 cation to the Secretary at such time, in such manner, and
24 accompanied by such information as the Secretary may

1 require, including information on how the State edu-
2 cational agency—

3 (1) will develop State training programs on
4 school-wide positive behavior support approaches,
5 such as training programs developed with the assist-
6 ance of the Secretary (acting through the Office of
7 Special Education Programs Technical Assistance
8 Center on Positive Behavioral Interventions and
9 Supports of the Department of Education); and

10 (2) will target resources to schools and local
11 educational agencies in need of assistance related to
12 improving school culture and climate through posi-
13 tive behavior supports.

14 (d) AUTHORITY TO MAKE SUBGRANTS.—

15 (1) IN GENERAL.—A State educational agency
16 receiving a grant under this section may use such
17 grant funds to award subgrants, on a competitive
18 basis, to local educational agencies.

19 (2) APPLICATION.—A local educational agency
20 desiring to receive a subgrant under this section
21 shall submit an application to the applicable State
22 educational agency at such time, in such manner,
23 and containing such information as the State edu-
24 cational agency may require.

25 (e) PRIVATE SCHOOL PARTICIPATION.—

1 (1) IN GENERAL.—A local educational agency
2 receiving subgrant funds under this section shall,
3 after timely and meaningful consultation with appro-
4 priate private school officials, ensure that private
5 school personnel can participate, on an equitable
6 basis, in activities supported by funds under this
7 section.

8 (2) PUBLIC CONTROL OF FUNDS.—The control
9 of funds provided under this section, and title to ma-
10 terials, equipment, and property purchased with
11 such funds, shall be in a public agency, and a public
12 agency shall administer such funds, materials, equip-
13 ment, and property.

14 (f) REQUIRED ACTIVITIES.—A State educational
15 agency receiving a grant, or a local educational agency re-
16 ceiving a subgrant, under this section shall use such grant
17 or subgrant funds to carry out the following:

18 (1) Developing and implementing high-quality
19 professional development and training programs,
20 such as training programs developed with the assist-
21 ance of the Secretary (acting through the Office of
22 Special Education Programs Technical Assistance
23 Center on Positive Behavioral Interventions and
24 Supports of the Department of Education), to imple-
25 ment evidence-based systematic approaches to

1 school-wide positive behavior supports, including im-
2 proving coaching, facilitation, and training capacity
3 for principals and other administrators, teachers,
4 specialized instructional support personnel, and
5 other staff.

6 (2) Providing technical assistance to develop
7 and implement evidence-based systematic approaches
8 to school-wide positive behavior supports, including
9 technical assistance for data-driven decisionmaking
10 related to behavioral supports and interventions in
11 the classroom and throughout common areas.

12 (3) Researching, evaluating, and disseminating
13 high-quality evidence-based programs and activities
14 that implement school-wide positive behavior sup-
15 ports with fidelity.

16 (4) Supporting other local positive behavior
17 support implementation activities consistent with
18 this subsection, including outreach to families and
19 community agencies and providers, such as mental
20 health authorities.

21 (g) EVALUATION AND REPORT.—Each State edu-
22 cational agency receiving a grant under this section shall,
23 at the end of the 3-year grant period for such grant, pre-
24 pare and submit to the Secretary, a report that—

1 (1) evaluates the State’s progress toward devel-
2 oping and implementing evidence-based systematic
3 approaches to school-wide positive behavior supports;
4 and

5 (2) includes such information as the Secretary
6 may require.

7 (h) DEPARTMENT OF THE INTERIOR.—From the
8 amount appropriated under section 11, the Secretary may
9 allocate funds to the Secretary of the Interior for activities
10 under this section with respect to schools operated or
11 funded by the Department of the Interior, under such
12 terms as the Secretary of Education may prescribe.

13 **SEC. 7. NATIONAL ASSESSMENT.**

14 (a) NATIONAL ASSESSMENT.—The Secretary shall
15 carry out a national assessment to—

16 (1) determine compliance with the requirements
17 of this Act; and

18 (2) identify best practices with respect to pro-
19 fessional development and training programs carried
20 out under section 6, which shall include identifying
21 evidence-based school personnel training models with
22 demonstrated success (including models that empha-
23 size positive behavior supports and de-escalation
24 techniques over physical intervention).

1 (b) REPORT.—The Secretary shall submit to the
2 Committee on Education and Labor of the House of Rep-
3 resentatives and the Committee on Health, Education,
4 Labor, and Pensions of the Senate—

5 (1) an interim report that summarizes the pre-
6 liminary findings of the assessment described in sub-
7 section (a) not later than 3 years after the date of
8 enactment of this Act; and

9 (2) a final report of the findings of the assess-
10 ment not later than 5 years after the date of the en-
11 actment of this Act.

12 **SEC. 8. PROTECTION AND ADVOCACY SYSTEMS.**

13 Protection and Advocacy Systems shall have the au-
14 thority provided under section 143 of the Developmental
15 Disabilities Assistance and Bill of Rights Act of 2000 (42
16 U.S.C. 15043) to investigate, monitor, and enforce protec-
17 tions provided for students under this Act and the amend-
18 ments made by this Act.

19 **SEC. 9. LIMITATION OF AUTHORITY.**

20 (a) IN GENERAL.—Nothing in this Act shall be con-
21 strued to restrict or limit, or allow the Secretary to restrict
22 or limit, any other rights or remedies otherwise available
23 to students or parents under Federal, State, or local law
24 or regulation.

25 (b) APPLICABILITY.—

1 (1) PRIVATE SCHOOLS.—Nothing in this Act
2 shall be construed to affect any private school that
3 does not receive, or does not serve students who re-
4 ceive, support in any form from any program sup-
5 ported, in whole or in part, with funds appropriated
6 to the Department of Education.

7 (2) HOME SCHOOLS.—Nothing in this Act shall
8 be construed to—

9 (A) affect a home school, whether or not a
10 home school is treated as a private school or
11 home school under State law; or

12 (B) consider parents who are schooling a
13 child at home as school personnel.

14 **SEC. 10. RULE OF CONSTRUCTION ON DATA COLLECTION.**

15 Nothing in this Act shall be construed to affect the
16 collection of information or data with respect to corporal
17 punishment authorized under the statutes and regulations
18 implementing title VI of the Civil Rights Act of 1964 (42
19 U.S.C. 2000d et seq.), title IX of the Education Amend-
20 ments of 1972 (20 U.S.C. 1681 et seq.), section 504 of
21 the Rehabilitation Act of 1973 (29 U.S.C. 794 et seq.),
22 or the Department of Education Organization Act (20
23 U.S.C. 3401 et seq.).

1 **SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

2 There are authorized to be appropriated such sums
3 as may be necessary to carry out this Act for fiscal year
4 2019 and each of the 4 succeeding fiscal years.

5 **SEC. 12. DEFINITIONS.**

6 In this Act:

7 (1) CORPORAL PUNISHMENT.—The term “cor-
8 poral punishment” means paddling, spanking, or
9 other forms of physical punishment, however light,
10 imposed upon a student.

11 (2) EDUCATIONAL SERVICE AGENCY.—The
12 term “educational service agency” has the meaning
13 given such term in section 8101(18) of the Elemen-
14 tary and Secondary Education Act of 1965 (20
15 U.S.C. 7801(18)).

16 (3) ELEMENTARY SCHOOL.—The term “elemen-
17 tary school” has the meaning given the term in sec-
18 tion 8101(19) of the Elementary and Secondary
19 Education Act of 1965 (20 U.S.C. 7801(19)).

20 (4) LOCAL EDUCATIONAL AGENCY.—The term
21 “local educational agency” has the meaning given
22 the term in section 8101(30) of the Elementary and
23 Secondary Education Act of 1965 (20 U.S.C.
24 7801(30)).

25 (5) PARENT.—The term “parent” has the
26 meaning given the term in section 8101(38) of the

1 Elementary and Secondary Education Act of 1965
2 (20 U.S.C. 7801(38)).

3 (6) POSITIVE BEHAVIOR SUPPORTS.—The term
4 “positive behavior supports” means a systematic ap-
5 proach to embed evidence-based practices and data-
6 driven decision making to improve school climate
7 and culture, including a range of systemic and indi-
8 vidualized strategies to reinforce desired behaviors
9 and diminish reoccurrence of problem behaviors, in
10 order to achieve improved academic and social out-
11 comes and increase learning for all students, includ-
12 ing those with the most complex and intensive be-
13 havioral needs.

14 (7) PROTECTION AND ADVOCACY SYSTEM.—The
15 term “protection and advocacy system” means a
16 protection and advocacy system established under
17 section 143 of the Developmental Disabilities Assist-
18 ance and Bill of Rights Act of 2000 (42 U.S.C.
19 15043).

20 (8) SCHOOL.—The term “school” means an en-
21 tity—

22 (A) that—

23 (i) is a public or private—

24 (I) day or residential elementary
25 school or secondary school; or

1 (II) early childhood, elementary
2 school, or secondary school program
3 that is under the jurisdiction of a
4 school, local educational agency, edu-
5 cational service agency, or other edu-
6 cational institution or program; and

7 (ii) receives, or serves students who
8 receive, support in any form from any pro-
9 gram supported, in whole or in part, with
10 funds appropriated to the Department of
11 Education; or

12 (B) that is a school funded or operated by
13 the Department of the Interior.

14 (9) SPECIALIZED INSTRUCTIONAL SUPPORT
15 PERSONNEL.—The term “specialized instructional
16 support personnel” means school counselors, school
17 social workers, school nurses, school psychologists,
18 and other qualified professional personnel involved in
19 providing assessment, diagnosis, counseling, edu-
20 cational, health, therapeutic, and other necessary
21 corrective or supportive services.

22 (10) SECONDARY SCHOOL.—The term “sec-
23 ondary school” has the meaning given the term in
24 section 8101(45) of the Elementary and Secondary
25 Education Act of 1965 (20 U.S.C. 7801(45)).

1 (11) SECRETARY.—The term “Secretary”
2 means the Secretary of Education.

3 (12) STATE.—The term “State” has the mean-
4 ing given the term in section 8101 of the Elemen-
5 tary and Secondary Education Act of 1965 (20
6 U.S.C. 7801).

7 (13) STATE EDUCATIONAL AGENCY.—The term
8 “State educational agency” has the meaning given
9 the term in section 8101(48) of the Elementary and
10 Secondary Education Act of 1965 (20 U.S.C.
11 7801(48)).

12 (14) STUDENT.—The term “student” means a
13 student enrolled in a school defined in paragraph
14 (8).

15 **SEC. 13. PRESUMPTION OF CONGRESS RELATING TO COM-**
16 **PETITIVE PROCEDURES.**

17 (a) PRESUMPTION.—It is the presumption of Con-
18 gress that grants awarded under this Act will be awarded
19 using competitive procedures based on merit.

20 (b) REPORT TO CONGRESS.—If grants are awarded
21 under this Act using procedures other than competitive
22 procedures, the Secretary shall submit to Congress a re-
23 port explaining why competitive procedures were not used.

1 **SEC. 14. PROHIBITION ON EARMARKS.**

2 None of the funds appropriated to carry out this Act
3 may be used for a congressional earmark as defined in
4 clause 9(e) of rule XXI of the Rules of the House of Rep-
5 resentatives of the 114th Congress.

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